

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 JAMES M. LEDAKIS

Supervising Deputy Attorney General

3 RON ESPINOZA, State Bar No. 176908

Deputy Attorney General

4 110 West "A" Street, Suite 1100
San Diego, CA 92101

5 P.O. Box 85266

6 San Diego, CA 92186-5266

Telephone: (619) 645-2100

7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9
10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2008-252

13 AMY JACKSON, R.N.
24850 Hancock Avenue, #L101
14 Murrieta, CA 92562

DEFAULT DECISION
AND ORDER

[Gov. Code, §11520]

15 Registered Nurse License No. 658006

16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about February 28, 2008, Complainant Ruth Ann Terry, M.P.H.,
19 R.N., in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs, State of California, filed Accusation No. 2008-252 against
21 Amy Jackson, R.N. (Respondent) before the Board of Registered Nursing.

22 2. On or about May 26, 2005, the Board of Registered Nursing (Board)
23 issued Registered Nurse License No. 658006 to Respondent. The Registered Nursing license
24 was in full force and effect at all times relevant to the charges brought herein and will expire on
25 February 28, 2009, unless renewed.

26 3. On or about March 6, 2008, Sandra Sotelo, an employee of the Department
27 of Justice, served by Certified and First Class Mail, a copy of Accusation No. 2008-252,
28

Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7, to Respondent's address of record with the Board, which was and is:

24850 Hancock Avenue, #L101
Murrieta, CA 92562

A copy of the Accusation is attached as Exhibit A, and is incorporated herein by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. On or about March 20, 2008, the aforementioned documents were returned by the U.S. Postal Service marked "Unable to Forward." Listed on the returned envelope was a forwarding address for Respondent.

6. On or about March 20, 2008, Sandra Sotelo again served by Certified and First Class Mail, a copy of Accusation No. 2008-252, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7, to Respondent's forwarding address, which was:

41 Keleawe St.
Makawao, HI 96768-8957

7. Government Code section 11506 states, in pertinent part:

(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

8. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No. 2008-252.

9. California Government Code section 11520 states, in pertinent part:

(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent.

1 10. Pursuant to its authority under Government Code section 11520, the Board
2 finds Respondent is in default. The Board will take action without further hearing and, based on
3 the evidence on file herein, finds that the allegations in Accusation No. 2008-252 are true.

4 11. The total cost for investigation and enforcement in connection with the
5 Accusation are \$1,343.00 as of May 12, 2008.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Amy Jackson, R.N.,
8 has subjected her Registered Nurse License No. 658006 to discipline.

9 2. A copy of the Accusation is attached.

10 3. The agency has jurisdiction to adjudicate this case by default.

11 4. The Board of Registered Nursing is authorized to revoke Respondent's
12 Registered Nurse license based upon the following violations alleged in the Accusation:

- 13 a. Conviction of Substantially Related Crime-- Battery and Child
14 Endangerment (Bus. & Prof. Code, §§ 490 & 2761, subd. (f)); and
15 b. Unprofessional Conduct-- Use of Alcohol to Extent Dangerous to
16 Self or Others (Bus. & Prof. Code, §§ 2761, subd. (a) & 2762,
17 subd. (b));

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **ORDER**

2 **IT IS SO ORDERED** that Registered Nurse License No. 658006, heretofore
3 issued to Respondent Amy Jackson, R.N., is revoked.

4 Pursuant to Government Code section 11520, subdivision (c), Respondent may
5 serve a written motion requesting that the Decision be vacated and stating the grounds relied on
6 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
7 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
8 statute.

9 This Decision shall become effective on September 15, 2008.

10 It is so ORDERED August 14, 2008

11 *LaTranene W Tate*

12
13 FOR THE BOARD OF REGISTERED NURSING
14 DEPARTMENT OF CONSUMER AFFAIRS

15
16 80238131.wpd

17 DOJ docket number:SD2007802206

18 Attachment:

19 Exhibit A: Accusation No. 2008-252
20
21
22
23
24
25
26
27
28

Exhibit A
Accusation No. 2008-252

1 EDMUND G. BROWN JR., Attorney General
of the State of California

2 JAMES LEDAKIS

Supervising Deputy Attorney General

3 RON ESPINOZA, State Bar No. 176908

Deputy Attorney General

4 110 West "A" Street, Suite 1100

San Diego, CA 92101

5 P.O. Box 85266

6 San Diego, CA 92186-5266

Telephone: (619) 645-2100

7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2008-252

14 AMY JACKSON, R.N.
24850 Hancock Avenue, #L101
15 Murrieta, CA 92562

A C C U S A T I O N

16 Registered Nurse License No. 658006

17 Respondent.

18
19 Complainant alleges:

20 **PARTIES**

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
22 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
23 Department of Consumer Affairs.

24 2. On or about May 26, 2005, the Board of Registered Nursing (Board)
25 issued Registered Nurse License No. 658006 to Amy Jackson (Respondent). The Registered
26 Nursing license was in full force and effect at all times relevant to the charges brought herein,
27 and will expire on February 28, 2009, unless renewed.

28 ///

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing. Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

"....

"(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter [the Nursing Practice Act] or regulations adopted pursuant to it.

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

"...."

6. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"....

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use

1 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
2 license.

3 "...."

4 7. Section 482 of the Code states:

5 "Each board under the provisions of this code shall develop criteria to evaluate the
6 rehabilitation of a person when:

7 "...."

8 "(b) Considering suspension or revocation of a license under Section 490.

9 "Each board shall take into account all competent evidence of rehabilitation
10 furnished by the applicant or licensee."

11 8. Section 490 of the Code states:

12 "A board may suspend or revoke a license on the ground that the licensee has
13 been convicted of a crime, if the crime is substantially related to the qualifications, functions, or
14 duties of the business or profession for which the license was issued. A conviction within the
15 meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo
16 contendere. Any action which a board is permitted to take following the establishment of a
17 conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has
18 been affirmed on appeal, or when an order granting probation is made suspending the imposition
19 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the
20 Penal Code."

21 9. Section 493 of the Code states:

22 "Notwithstanding any other provision of law, in a proceeding conducted by a board
23 within the department pursuant to law to deny an application for a license or to suspend or revoke
24 a license or otherwise take disciplinary action against a person who holds a license, upon the
25 ground that the applicant or the licensee has been convicted of a crime substantially related to the
26 qualifications, functions, and duties of the licensee in question, the record of conviction of the
27 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
28 and the board may inquire into the circumstances surrounding the commission of the crime in

1 order to fix the degree of discipline or to determine if the conviction is substantially related to the
2 qualifications, functions, and duties of the licensee in question.

3 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
4 'registration.'"

5 10. California Code of Regulations, title 16, section 1445, states:

6 "

7 "(b) When considering the suspension or revocation of a license on the grounds
8 that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of
9 such person and his/her eligibility for a license will consider the following criteria:

10 "(1) Nature and severity of the act(s) or offense(s).

11 "(2) Total criminal record.

12 "(3) The time that has elapsed since commission of the act(s) or offense(s).

13 "(4) Whether the licensee has complied with any terms of parole, probation,
14 restitution or any other sanctions lawfully imposed against the licensee.

15 "(5) If applicable, evidence of expungement proceedings pursuant to
16 Section 1203.4 of the Penal Code.

17 "(6) Evidence, if any, of rehabilitation submitted by the licensee."

18 11. California Code of Regulations, title 16, section 1444, states:

19 "A conviction or act shall be considered to be substantially related to the
20 qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the
21 present or potential unfitness of a registered nurse to practice in a manner consistent with the
22 public health, safety, or welfare. Such convictions or acts shall include but not be limited to the
23 following:

24 "(a) Assaultive or abusive conduct including, but not limited to, those violations
25 listed in subdivision (d) of Penal Code Section 11160.

26 "

27 12. Section 11160, subdivision (d) of the Penal Code, states:

28 "For the purposes of this section, 'assaultive or abusive conduct' shall

1 include any of the following offenses:

2 "....

3 "(8) Battery, in violation of Section 242.

4 "....

5 "(17) Child abuse or endangerment, in violation of Section 273a or 273d.

6 "...."

7 COST RECOVERY

8 13. Section 125.3 of the Code provides, in pertinent part, that the Board may
9 request the administrative law judge to direct a licentiate found to have committed a violation or
10 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
11 and enforcement of the case.

12 FIRST CAUSE FOR DISCIPLINE

13 (January 11, 2007 Criminal Convictions--

14 Battery and Child Endangerment on October 20, 2006)

15 14. Respondent is subject to disciplinary action under Code sections 490 and
16 2761, subdivision (f), for criminal convictions that are substantially related to her qualifications,
17 functions, and duties as a registered nurse, in that on or about January 11, 2007, in a criminal
18 proceeding entitled *People of the State of California v. Amy Jackson*, in Riverside County
19 Superior Court, Case No. SWM057351, Respondent was convicted by her plea of guilty to a
20 violation of Penal Code section 242 [battery] and Penal Code section 273a, subdivision (b) [child
21 endangerment], both misdemeanors. The circumstances are as follows:

22 a. On or about October 20, 2006, an officer from the Murrieta Police
23 Department contacted Respondent at her apartment. At the time, Respondent was intoxicated,
24 unable to communicate with the officer, and subsequently transported to a hospital via
25 ambulance. In the apartment were empty vodka bottles and uneaten food on night stands and the
26 floor. The kitchen area had half-eaten food, dirty dishes and diet coke cans on the counter and
27 floor. Respondent lived with her son (in fourth grade at the time) who reported to the officer that
28 Respondent had punched him on his arm with her fists after he had attempted to pour out a bottle

1 of vodka. Respondent's son had not been to school since October 3, 2006.

2 b. On or about January 11, 2007, Respondent was sentenced as
3 follows: summary probation for a period of four years. As part of probation, Respondent was
4 ordered to serve 15 days in jail (to be served on consecutive weekends), enroll in and complete
5 child abuse classes, pay a \$400.00 fee to the Domestic Violence Fund, and pay a \$100.00
6 restitution fine.

7 SECOND CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct- Use of Alcohol to Extent Dangerous to Self or Others)

9 15. Respondent is subject to disciplinary action under Code section 2761,
10 subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762,
11 subdivision (b), in that she used alcoholic beverages to an extent or in a manner dangerous or
12 injurious to herself, any other person, or the public, or to the extent that such use impaired her
13 ability to conduct with safety to the public the practice authorized by her license, as set forth in
14 paragraph 14 above.

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein
17 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License No. 658006 issued to
19 Amy Jackson;

20 2. Ordering Amy Jackson to pay the Board of Registered Nursing the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3; and

23 ///

24 ///

25 ///

26 ///

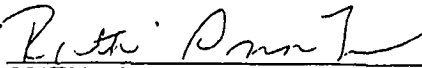
27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

3. Taking such other and further action as deemed necessary and proper.

DATED: 2/28/08


RUTH ANN TERRY, M.P.H., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2007802206
80203628.wpd